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United States Immigration Reform: What does it mean for Africa?

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Introduction

Immigration reform is a highly contentious topic in the United States of America (US), a country historically described as a 'melting pot' of nations but now seen more as a 'salad bowl' because of its diversity. The US, like most countries around the world, encounters complex politics surrounding immigration because of the multitude of factors from international relations, economic impact and cultural issues, amongst others. The whole topic of the reform of immigration law gets even more confused by the fact that to make a law in the US, two Houses of Congress, the Senate and the House of Representatives, have to agree on the exact wording. And neither House has to even formally consider what the other has decided on. Each can create its own bill (a draft of a law, which only becomes law when both Houses accept it and it is approved and signed into law by the President of the United States of America). Sometimes, as in the present situation relating to immigration, one House will pass a bill, knowing that the other House will never agree to it. That's called politics.

In addition to the political difficulty encountered domestically, immigration is also a challenging international political issue, with US-Africa relations falling under this umbrella. The 2010 census figures officially show 1.6 million African born immigrants living in the US.ⁱ It sounds like a lot, but the numbers are considerably smaller compared to immigrants who are Asians (11.28 million), Latinos (21.2 million) and Europeans (4.8 million). Nevertheless, this African immigrant figure was double the number compared with 2000, with most African immigrants coming from Ethiopia, Egypt, Ghana, Kenya, and Nigeria. There are numerous examples of such immigrants ranging from South African born actress Charlize Theron, to the no less important African citizens who seek asylum in America simply to survive and provide a better life for their families. Then there are the unique and prominent, but lesser-known people compared to Hollywood stars, like Wole Soboyejo, born in Palo Alto California, raised in Nigeria, educated at UK universities, and is now known as a Nigerian-American scientist who teaches at Princeton University and sits on the advisory board of the South African NGO Young People in International Affairs (YPIA).

From both the American and African perspectives, African immigration to the US is important. Focusing on the latter, monetary remittances from America are often the lifeline for many families across the African continent. In 2011, the World Bank and the African Development Bank revealed global remittance flows to Africa, which includes the US, at almost US\$40 billion per year or 2.6 percent of Africa's total GDP.ⁱⁱ This was only exceeded by FDI in terms of external input in African economies. The figure for remittances continues to rise with the International Organisation for Migration (IOM) in February 2013 reporting that Africans in diaspora remitted a total of US\$60 billion to the continent in 2012.ⁱⁱⁱ

In American politics this year (2013), as in years in the past, US immigration reform has made its way to the top of the agenda. However, 2013 has been somewhat different from the past, with possible substantial change to the immigration policy already underway in the American Congress, with the President also speaking out on the need for reform.

In May 2013, members of the US Senate introduced a new bill seeking to overhaul the American immigration system. Two months later, that immigration bill passed relatively easily through the Senate with bipartisan (Democratic and Republican) support in a 68-32 vote. Despite this achievement, a bill now needs to be passed by a Republican controlled House of Representatives who, with the Senators, are currently on their annual August recess.

It needs to be understood that most of this political concern is about illegal immigration and border control. With the former, does America send them back or give them a path to citizenship? Is it also important to understand the difference between an immigrant and a non-immigrant. An immigrant is someone who comes to stay, and will likely seek citizenship. However, a person who goes to the US on a student, work, or cultural exchange visa is not an immigrant. Such visas are similar in comparison to South African temporary residence permits for example students, or those seeking temporary work.

The current debate in the US affects both the prospective immigrant and non-immigrant going to America, and as such needs to be understood by people across Africa, particularly 'non-immigrant' Africans living in the US and future Africans looking at America as a possible destination to study, work, or to immigrate.

The Bad

Concerns have been raised about Africa being left out of the new immigration reform equation. For example, one of the main ways Africans come to the US in addition to applying for asylum and via family visas is through the Diversity Visa program, better known as the 'Green Card Lottery'.

The name of the visa is as it implies. Every year millions around the world apply for 50,000 visas that allow them to immigrate to the US. The program was established in 1990 and today approximately half of the 'winners' come from Africa. One example is a close friend of the author who has personally gone through this 'Green Card Lottery' process. This individual, a South African insurance executive and MBA student, his wife, a qualified teacher, and their two sons were recently awarded their diversity visas after a long and expensive process of applying. This includes nearly US\$400 a person to apply, plus medical fees for items like x-rays, all of which is non-refundable with no guarantee of a visa. This example shows it is not a cheap and easy process, but one thousands of Africans ultimately succeed at every year.

The proposed reform is looking to end such a program and it has been met with outrage by Africans in the US, as well as the Congressional Black Caucus (CBC) with many voting against the already passed senate bill. In July, the CBC met with President Obama at the White House to discuss the issue. This was the first meeting between the CBC and the President in more than two years. They raised concerns about Africans not being fairly represented.

Another African criticism surrounds the fact that the new immigration bill specifically includes programs designed to benefit certain immigrant groups such as Latinos, Europeans and Asians, but not Africans. Although this special allowance for certain groups is

not a new phenomenon, some find it hard to understand why 10,500 visas annually are set aside for Irish immigrants, who flooded America in the 19th century to escape the potato famine and British oppression and today have a large undocumented population present in cities like Boston.

The Good?

The lobbying efforts of Facebook, Google and Microsoft and other technology mega companies have focused on H1B visas allowing corporations to employ foreign workers in specialty positions. With that, the new immigration bill puts a strong emphasis on science, technology, engineering and mathematics (STEM) via the H1B visa, regardless of country of origin. The new bill would increase the visa cap from 65,000 to 110,000, with provisions mentioned to potentially increase the number to 180,000 per year dependant upon demand for highly skilled workers in a given fiscal year. The legislation also prioritizes American-trained science and tech workers with 25,000 visas available for STEM master's and doctoral graduates, up from 20,000 in the current law for advanced degree-holders in any field.

These international students typically enter the US on a F1 non-immigrant study visa. The impact could be immense if this legislation becomes law because it creates an easier pathway for retaining foreign students that obtain advanced STEM degrees at American universities. Around 96,200 foreign students obtained F-1 visas in 2010 and the new immigration bill passed by the Senate stipulates many will be eligible for a 'green card' upon graduation. Today, only a small number of with the H-1B visa program of being hired in a specialist position as the typical route.

This is obviously a welcome development for individuals around the world who are currently working or studying in the STEM environment and/or are highly skilled. However, this tends to favor the Chinese and Indians compared to the many in Africa, whose countries, on a whole, score extremely poorly in STEM education. Even South Africa is one such country, being ranked second to last in the world in science and math education, ahead of Yemen (143 out of 144 countries surveyed), according to a recent 2013 World Economic Forum report.^{iv} To put things in perspective, other African countries ranked considerably higher: Ghana 93 out of 144, Kenya 76, Morocco 53, Nigeria 92, and Zimbabwe 50.

If one is not planning a career in the STEM fields, but has access to money, the new Senate passed immigration bill does not make substantial changes to some of the typical routes one can use to enter the US. There are Treaty Trader (E-1) and Treaty Investor visas [E2] for citizens with whom the US shares a treaty of commerce and navigation. Unfortunately this includes only a select number of African countries such as Cameroon, The Democratic Republic of Congo (DRC) and Congo, Egypt, Ethiopia, Liberia, Morocco, Senegal and Togo. Moreover, the prospective immigrant must engage in substantial trade, including trade in services or technology, typically between America and the treaty country or invest a substantial amount of capital. The law does not give the specific amount of money needed, but it is typically around US\$100,000 or more. Lastly, there have been only minor changes proposed to the EB5 or 'million dollar' visa that allows anyone who is willing to invest one million US dollars into the country, regardless of your country of origin.

Another typical past route that does not include investing one million dollars has been via the L-1 intra-company transfer visa that allows foreign nationals to enter America to open a new office of a foreign corporation. The premises for the US office must be secured and money invested in or set aside for business operations. However, the new Senate approved bill seeks to deny skilled-foreign-worker visas to foreign firms operating in the US who rely too heavily on expatriates rather than hiring local Americans. If the new legislation is passed, the new H1B visas can be denied to those firms with more than 50 employees with 50% or more of its employees already on this visa. Furthermore, the company will be required to list vacancies on a US labour department sponsored website for a period of 30 days, before hiring foreign workers. The proposed fines would increase for those who do not confirm to these rules.

Due to the importance of agriculture in both the US and Africa, it is important to highlight the proposed new "W-visa," an agricultural worker program to replace the H-2A program. The "W" would allow foreign workers to be employed on farms for three-year renewable periods compared to the one year allowed by the H-2A, which is currently mostly used by fruit and vegetable farmers to hire seasonal workers. These workers would also be allowed to leave one job for another to work for multiple designated farms, and only be required to leave the country if unemployed for 60 or more days.

The vast majority of the America's seasonal documented farmworkers are from Mexico, but a lesser-known fact is the second place country in terms of seasonal documented farmworkers and not illegal immigrants, is South Africa. US farms employed 1100 South Africans last year. South African farm workers are highly sought after due to their English language abilities and their skills to run high-tech machinery. Unlike visa programs for tech workers, there is currently no cap on visas for farmworkers. This would change under reform proposals. The House of Representatives plan would limit this to 500,000 a year while the Senate's bill allows for 337,000 new workers over three years. There are currently an estimated one million undocumented farmworkers compared to 66,000 who receive farmworker visas through the official channels.

And the J1 visa?

One better-known non-immigrant route to the US is via a J1 visa that provides cultural and educational exchange opportunities in America. Many J-1 visas go to young people working in places like summer or winter camps. The program is run by the US State Department, and has had a profound impact on many lives including the authors. His wife, a South African, originally entered the US on a J1 visa to work as an au pair. More recently, the author recently hired a young South African gentleman who spent the last three years teaching math and science at a private school in North Carolina, who now teaches South Africans and many other nationalities at the North American International School (NAIS) in Pretoria. The teacher was in the US on a J1 visa. Thanks to his experience and knowledge of the curriculum and culture gained, he is a perfect fit for NAIS and is helping to teach dozens of young, bright and ambitious minds.

The Fulbright-Hays Act established the J-1 program in 1961 in order to strengthen the international relations between the US and other countries. Making significant change to such a program would obviously damage some relations, and indeed this year's original immigration reform proposals were looking to greatly change the J1 program by classifying it as strictly 'work' programmes, which is very different from the cultural exchange programmes. This fear and others were put to rest after the Corker-Hoeven amendment was passed and corrected a number of these concerns.

Conclusion

As things stand, it appears likely that the immigration bill passed by the Senate and currently sitting in the House for consideration will be a repeat of the past, meaning it will be unsuccessful in becoming law. However, the proposed legislation does show the world in what direction US immigration could be headed, with a new emphasis being less on 'diversity visa' type programs and more on skills and education.

The economics and politics associated with immigration in general is a difficult situation to balance from the American perspective. However, young people from Africa and elsewhere who enter the country under one of these programs more often than not change their perception of the US for the better. Ultimately it is a type of soft power or soft diplomacy that the US really needs.

There are some truly amazing stories about African immigration to the US including one Kenyan who entered America under a student visa (not an immigrant) and whose US born son eventually rose through the ranks and became president of the United States since anyone born in the United States is an American citizen despite the nationality of parents.

It is important to remember that this isn't always a one-way street. There are crucial items like remittances, but there are also individuals who ultimately return to Africa with new skills and ideas. There are even the Professor Soboyejo's of the world who spend their time helping citizens of numerous countries, bouncing back and forth between Princeton, New Jersey and Abuja, Nigeria as president of the African University of Science and Technology. Whatever happens this year, the US immigration reform debate will definitely not end, and as the talks evolve over time, there will be more room for analysis and debate on their impact for Africa.

Policy Considerations

- South Africa, as well as other African Governments and NGOs, should work with groups such as the Congressional Black Caucus and others in lobbying more strongly in order to ensure the concerns of Africans are realized.
- African governments should work with their counterparts in the US to raise the importance of American immigration reform to overall bilateral relations between countries.

- Africa should promote the benefits of hiring educated, innovative Africans to American companies involved in the STEM fields, and emphasise the positive change these African citizens can make upon participating in such specialty positions and then returning to their country of origin.
- For the US - once immigration reform bills are eventually passed and signed into law by the President, there should be a strong US government-led campaign aimed at citizens around the world to understand the new legislation and what it means for their particular country.

Notes

i See U.S. Census Bureau. Available online at: <http://www.census.gov/2010census/>

ii The World Bank and African Development Bank, Leveraging Migration for Africa: Remittances, Skills and Investments, 2011, Available online at: <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Leveraging%20Migration-P4-rev-3.31.2011.pdf>

iii Nzeshi, Onwuka, Africa: Diaspora Remittances to Africa Hits U.S.\$60 billion, This Day, 05 February 2013, Available online at: <http://allafrica.com/stories/201302050877.html>

iv See World Economic Forum, Global Information Technology Report 2013, April, Available online at: <http://www.weforum.org/reports/global-information-technology-report-2013>



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